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13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**
15 **WESTERN DIVISION**

16 SCOTT HARGIS, d/b/a SCOTT
17 HARGIS PHOTO, an individual,

18 Plaintiff,

19 v.

20 PACIFICA SENIOR LIVING
21 MANAGEMENT, LLC, a California
22 limited liability corporation; and DOES
23 1-10, inclusive

24 Defendants.

Case No.: 2:22-cv-06989-MCS-PD
Hon. Mark C. Scarsi

**EX PARTE APPLICATION FOR
EXPEDITED BRIEFING AND
HEARING OF PLAINTIFF'S
MOTION FOR PARTIAL
RECONSIDERATION**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that pursuant to Local Rule 7-19, that as soon as the matter may be heard by the Hon. Mark C. Scarsi in Courtroom 7C of the above-entitled Court, located at 350 W. 1st Street, Courtroom 7C, 7th Floor, Los Angeles, California 90012, Plaintiff Scott Hargis dba Hargis Photo (“Hargis” or “Plaintiff”) will and hereby does apply for expedited consideration of its concurrently-filed Motion for Partial Reconsideration of the Court’s August 2, 2023 Order Re: Parties’ Cross Motions for Summary Judgment (Dkt. No. 42).

In an eleventh-hour production of documents, Defendant Pacifica Senior Living Management, LLC (“Pacifica” or “Defendant”) has provided a “supplemental production” of documents consisting of emails and images related to Pacifica’s use of all forty-three (43) photographs on its websites for months after receiving notice—and after initiation of the lawsuit. Further, Pacifica’s production reinforces that Defendant has caused spoliation of evidence related to those websites. Accordingly, Hargis seeks expedited consideration of its motion for consideration based on Pacifica’s late production.

The basis for this motion is that Hargis has discovered new evidence—upon the production of such evidence as previously withheld by Pacifica. Realistically, these issues must be sorted out prior to trial.

Per Local Rule 7-19.1, Plaintiff provided notice of this application and the relief sought to all parties on November 15, 2023 by written email notice. (*See* Foss Decl. ¶ 2.) On November 16, 2023, counsel for the parties participated in a video conference to meet and confer; on that video conference Defendant indicated that they would oppose this Application. (*Id.* ¶ 3.)

Per Local Rule 7-19, the name, address, phone number, and email address of counsel for the opposing parties are:

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This Application is based on the records and documents on file in this action, the concurrently-filed Declaration of Taylor C. Foss, and any further evidence and argument as may be presented prior to or at the time of hearing on this Application.

A [Proposed] Order is filed concurrently herewith.

Dated: November 16, 2023

ONE LLP

By: /s/ Taylor C. Foss

Taylor C. Foss

John Tehranian

Leo M. Lichtman

Christopher S. Skinner

Attorneys for Plaintiff,

Scott Hargis, d/b/a Scott Hargis Photo